

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**PHILLIP C. WARFIELD,
WARFIELD PROPERTIES, INC.,**

Plaintiff,

v.

No. 10-CV-127 KBM/WDS

**THE CITY OF LAS VEGAS,
the governing body of Las Vegas,
TONY MARQUEZ JR., ANDREW
FELDMAN, AND DIANE MOORE,
in their respective official and
individual capacities,**

Defendants.

STIPULATED MOTION FOR REMAND

Come now, the parties in the above captioned matter by and through their attorneys of record, Mark a. Basham, and Tony F. Ortiz, and stipulate to this motion for remand and as grounds therefor further state as follows:

This case was filed by the Plaintiffs in New Mexico State District Court on January 14, 2010. The case was removed to Federal District Court by Defendants on February 11, 2010. The Plaintiffs expressed concern as to the jurisdiction of the federal courts in light of requirements for filing "as applied" takings claims in federal court. In order to get resolution of this issue Plaintiffs prepared a motion, a copy of which is attached hereto as Exhibit A, setting forth the law developed in, and following, the United States Supreme Court's decision in *Williamson Planning Comm'n v. Hamilton Bank*, 473 U.S. 172 (1985) and its progeny. The proposed motion was provided to defense counsel in order to determine whether it would be a stipulated motion.

A status conference was scheduled by this court on May 19, 2010 at which time the parties agreed that, in light of the potential jurisdictional issues, the safest course of action would be to remand the action back to state district court. The parties so advised the court and now seek leave to remand this case back to the state district court for further proceedings.

WHEREFORE, the Plaintiffs pray for leave of this Court to remand the matter to State District Court for adjudication on the merits.

/s/
Mark A. Basham
Basham & Basham, P.C.
2205 Miguel Chavez Rd.
Santa Fe, NM 87504

/s/
Tony Ortiz
Scheuer Yost & Patterson, P.C.
P.O.Box 9570
125 Lincoln Ave #223 87501
Santa Fe, NM 87504-9570

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of May, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing listed below:

Plaintiff's attorney, Tony F. Ortiz, tfo@santafelawyers.com

/s/
Mark A. Basham
mbasham@bbpcnm.com